

(1) An activity under the exemption is not being performed in accordance with the terms of the exemption; or

(2) On the basis of information not available at the time it was granted, an amendment to the terms of the exemption is necessary to adequately protect against risks to life and property.

(c) The Director, OHMO, terminates an exemption if he determines that—

(1) The exemption is no longer consistent with the public interest;

(2) The exemption is no longer necessary because of an amendment to the regulations; or

(3) The exemption was granted on the basis of false, fraudulent, or misleading representations or information.

(d) Unless the Director, OHMO, believes that immediate suspension or termination is necessary to abate the risk of an imminent hazard, he notifies the holder in writing of the reasons therefor and provides the holder an opportunity to show why the exemption should not be suspended or terminated, before he suspends or terminates an exemption under paragraph (b) or (c) of this section.

§ 107.121 Appeal.

Any applicant for an exemption or the renewal of an exemption aggrieved by an action taken by the Director, OHMO, under this subpart and any holder of an exemption suspended or terminated by the Director, OHMO, under § 107.119 (b) or (c) may file an appeal with the Director, MTB. The appeal must be filed within 30 days of service of notification of that action, suspension or termination. There has not been an exhaustion of administrative remedies until an appeal has been filed and the appellate process is completed by the issuance of an order by the Director, MTB, granting or denying the appeal.

§ 107.123 Availability for public inspection.

(a) Information relevant to an application under this part, including the application and supporting data, memoranda of any informal meetings with the applicant, and the grant or denial of the application is available for public inspection, except as specified in paragraph (b) of this section, at the Office of Hazardous Materials Operations, Trans Point Building, 2100 2nd Street, SW., Washington, D.C. 20590. Copies of available information may be obtained, as provided in Part 7 of this title.

(b) Information made available for inspection does not include materials which the Director, OHMO, determines should be withheld from public disclosure under § 107.5 and in accordance with the applicable provisions of section 552(b) of title 5, United States Code, and Part 7 of this title.

§ 107.125 Transition period and procedures for certain air commerce situations in Alaska.

(a) Notwithstanding any other provision of this subpart, an application for

an exemption from a requirement of 14 CFR Part 103 which—

(1) Does not involve radioactive materials;

(2) Is for one or more flights of civil aircraft to or between places in the State of Alaska to be completed before January 16, 1976; and

(3) Seeks priority treatment on the basis of an existing emergency or because other forms of transportation are impracticable

may be initiated through the appropriate Federal Aviation Administration official specified in Appendix A to this subpart. That official, upon receiving the information necessary for processing the application, will transmit to the official designated by the Director, OHMO, for that purpose in Alaska his evaluation as to whether an emergency exists or other forms of transportation are impracticable and his recommendations with respect to whether the exemption should be granted and any conditions that should be included therein. If the official designated by the Director, OHMO, determines that an emergency exists or that other forms of transportation are impracticable, and that the proposed flight or flights can be made safely, he grants the exemption subject to such conditions as he considers necessary and immediately notifies the applicant.

APPENDIX A

LIST OF DEPARTMENT OF TRANSPORTATION OFFICIALS THROUGH WHOM APPLICATIONS FOR EXEMPTIONS SEEKING PRIORITY TREATMENT ON THE BASIS OF EXISTING EMERGENCIES MAY BE INITIATED BY TELEPHONE

AIR CARRIERS

The Federal Aviation Administration Flight Standards District Office or Air Carrier District Office which serves the place where the flight[s] concerned will originate or which is responsible for overall inspection of the carrier's operations.

AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

The Federal Aviation Administration Flight Standards District Office or General Aviation District Office which serves the place where the flight[s] concerned will originate or which is responsible for overall inspection of the operator's operations.

MOTOR CARRIERS

Chief, Regulations Division, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Day 202/426-1700 and Night 202/426-1830.

RAIL CARRIERS

Associate Administrator for Safety, Federal Railroad Administration, Department of Transportation, Washington, D.C. 20590. Day 202/426-0897 or 426-2748 and Night 202/426-1830.

WATER CARRIERS

Chief, Packaged Cargo Branch, Cargo and Hazardous Materials Division, United States Coast Guard, Washington, D.C. 20590. Day or Night 202/426-1830.

APPENDIX B

STANDARD CONDITIONS APPLICABLE TO EXEMPTIONS

PACKAGES, CONTAINERS, SHIPMENTS

Exemptions from the regulations governing packages, containers, and the preparation and offering of hazardous materials for shipment are subject to the following conditions:

(1) The outside of each package must be plainly and durably marked "DOT-E" followed by the number assigned. On portable tanks, cargo tanks and tank cars, the markings must be in letters at least two inches high on a contrasting background.

(2) Each shipping paper issued in connection with any shipment made under an exemption must bear the notation "DOT-E" followed by the number assigned and the entries required by § 173.427 of this chapter.

(3) When an exemption issued to a shipper contains special carrier requirements, the shipper shall furnish a copy of the exemption to the carrier before or at the time a shipment is tendered.

FLIGHTS OF CIVIL AIRCRAFT

Exemptions from the regulations governing the transportation of hazardous materials on civil aircraft are subject to the following conditions:

(1) No person other than a required flight crewmember, an FAA inspector, the shipper or consignee of the material or a representative of the shipper or consignee so designated in writing, or a person necessary for handling the material may be carried on the aircraft.

(2) The operator of the aircraft must have advance permission from the owner or operator of each manned airport where the material is to be loaded or unloaded or where the aircraft is to land while the material is on board.

(3) At any airport where the airport owner or operator or authorized representative thereof has designated a location for loading or unloading the material concerned, the material may not be loaded or unloaded at any other location.

(4) If the material concerned can create destructive forces or have lethal or injurious effects over an appreciable area as a result of an accident involving the aircraft or the material, the loading and unloading of the aircraft and its operation in takeoff, enroute, and in landing must be conducted at a safe distance from heavily populated areas and from any place of human abode or assembly.

(5) If the aircraft is being operated by a holder of a certificate issued under Part 121 or Part 135 of title 14, CFR, operations must be conducted in accordance with conditions and limitations specified in the certificate holder's operations specifications or operations manual accepted by the FAA. If the aircraft is being operated under Part 91 of title 14, CFR, operations must be conducted in accordance with an operations plan accepted and acknowledged in writing by the operator's FAA District Office.

(6) Each crewmember of the aircraft must be provided written instructions on the conditions and limitations of the operation being conducted.

(7) The aircraft and the loading arrangement to be used must be approved for safe carriage of the particular materials concerned by the FAA District Office holding the operator's certificate and charged with overall inspection of its operations or the appropriate FAA District Office serving the place where the material is to be loaded.